

FIRST NATIONS HEALTH

BY - LAWS

DOKIS

NIPISSING

TEMAGAMI

APRIL 27, 1993

III Health Authority By-Law

Preamble

WHEREAS the Dokis, Nipissing and Temagami First Nation peoples have a right to health services at an adequate and proper level to meet their respective health requirements;

AND WHEREAS the Dokis and Nipissing First Nations entered into solemn Treaty arrangements with Her Majesty's Government of The dominion of Canada by adhesion to the Robinson-Huron Treaty of 1850;

AND WHEREAS the Dokis and Nipissing First Nations did not, through said Treaty give up their authority to be a self-governing people;

AND WHEREAS the Temagami First Nations never signed a Treaty arrangement with Her Majesty's Government of the Dominion of Canada and therefore also has kept its authority to be a self governing people;

AND WHEREAS the Chiefs and Councils of Dokis, Nipissing and Temagami First Nations desire by this by-law to take over responsibility for the delivery of health and related services and programs;

AND WHEREAS Section 81 (1) (a), (d), (f), (g), (h), (j), (l), (q) and (r) of the Indian Act R.S.C. 1970 Ch. 1 - 6 as amended empowers the Dokis, Nipissing and Temagami First Nations to make by-laws inter alia; *concurrent to:*

- (a) To provide for the health of residents on their respective reserves and to prevent the spreading of contagious and infectious diseases;
- (d) The prevention of disorderly conduct and nuisances;
- (f) The construction and maintenance of water courses, roads, bridges, ditches, fences and other local works;

- (g) The dividing of the reserve or a portion thereof into zones and prohibition of the construction of buildings or the carrying on of any class of business, trade or calling in any such zone;
- (h) The regulation of the construction repair and use of buildings, whether owned by the Band or by individual members of the Band;
- (j) The destruction and control of noxious weeds;
- (l) The construction and regulation of the use of public wells, cisterns, reservoirs and other water supplies;
- (g) With respect to any matter arising out of or ancillary to the exercise of powers under this section;
- (r) The imposition on summary conviction of a fine not exceeding one thousand dollars or imprisonment for a term not exceeding thirty days, or both, for violation of a by-law made under this section.

AND WHEREAS Section 36 of the Constitution Act 1982 provides that without alternate legislative authority of Parliament or of the Provincial Legislatures, or the rights of any of them with respect apt the exercise of their legislative authority, Canada and Province are committed to:

- (a) Promoting equal opportunities;
- (b) Furthering economic development to reduce disparity in opportunities;
and
- (c) Providing essential public services of reasonable quality to all Canadians.

AND WHEREAS the Dokis, Nipissing and Temagami First Nations define health in the same terms as endorsed by the World Health Organization as a state of complete physical, mental and social well being and not merely the absence of disease or infirmity.

AND WHEREAS the health conditions of the Dokis, Nipissing and Temagami First Nation Indian Reserves cannot be significantly improved without Indian involvement in and control of local health care services.

AND WHEREAS the Dokis, Nipissing and Temagami First Nations peoples desire their Chiefs and Councils to jointly create, maintain and operate a local health authority on and for their Reserves.

AND WHEREAS nothing in this by-law shall alter, deminish, abrogate, derogate or breach the Treaty and or Aboriginal rights of the Dokis, Nipissing and Temagami Bands of Indian or its members.

AND WHEREAS further, nothing in this by-law shall alter, diminish, abrogate, derogate or breach the Treaty status of the Dokis, Nipissing Band of Indians or its members under the Robinson-Huron Treaty of 1850 with her Majesty's Government of Canada, nor shall it be interpreted or construed to do so.

BE IT ENACTED AND THEREFORE IT IS HEREBY ENACTED as a joint and several by-law of the Councils of the Dokis, Nipissing and Temagami First Nation herein called the "Band Councils" as follows:

Councils Authorized to Obtain agreements for local and Regional Health Related Services

1. Band Councils are hereby authorized to enter into such agreements and declarations as in their sole discretion they deem appropriate, to create, maintain and operate the KINAMNOMAUDZHEWIN First Nations Health Board (hereinafter referred to as the "Board") to serve the community health needs of the Dokis, Nipissing and Temagami First Nations.

Establishment of KINAMNOMAUDZHEWIN First Nations Health Board

2. The Band Councils hereby enact and it is hereby enacted and established that there shall be a KINAMNOMAUDZHEWIN First Nations Health Board hereinafter referred to as the "Board".

3. The community health service needs of residents on each Reserve shall be administered, delivered and maintained by the Board. The Board shall be guided initially by the joint and several First Nations Health Policy Manual. (hereby incorporated by reference to this by-law and attached hereto as Appendix "A") The Board shall in the future make recommendations to the respective Band Councils for the revision of the policies set out in the said manual as changing conditions require.

4. The Band Councils shall appoint the KINAMNOMAUDZHEWIN Health Board and said Board shall be responsible and accountable to the respective Band Councils
 - A) A Director's term of office, subject to future Band by-laws, shall be for a four year term or until his successor is appointed by Chiefs and Councils.
 - B) Vacation of Office. The Office of a Director shall be vacated automatically:
 - i) if by notice in writing to the Board he resigns his office;
 - ii) if he dies;
 - iii) if he misses three consecutive Board meetings without a reasonable excuse;
 - iv) if he is found to be of unsound mind;
 - v) if he is dismissed for "just cause" by the Band Councils.

- C) The Band Councils have authority to dismiss Board members for "just cause". Change in the composition of the Chiefs and Councils shall not be "just cause" within the meaning of this clause. Such matters as serious misconduct, breach of confidentiality; failure to responsibly perform the duties of a Board member; missing meetings too frequently; or conviction for serious criminal offense may fall with the definition of "just cause".
- D) The Directors shall establish operating procedures of the Board and dealing inter alia, with such matters as meetings, duties of Directors, the establishment of Board Committees to monitor, evaluate and assess the various programs that are delivered by the Board.
- E) The Directors shall meet not less than 10 times per year. The Directors are empowered to include in their operating procedures a provision for meetings by telephone conference where circumstances warrant.

Board of Directors

- 5. (a) The Board shall consist of 9 directors, all of whom shall be voting members and also be members of the Dokis, Nipissing and Temagami Indian First Nations.
- (b) In jointly and severably appointing the Directors, Chiefs and Councils shall be guided by the need to provide representation on the Board from one each of the following elements of the three First Nations Communities:
 - * Representation from the Dokis, Nipissing and Temagami First Nations elders.
 - * Representation from the Dokis, Nipissing and Temagami First Nation youth (ages 18-30)

* Representation from the Dokis, Nipissing and Temagami First Nations by persons knowledgeable on health issues of the respective communities.

(c) There shall be a representation by a Band Councillor for each of the participating First Nations with responsibility for the health Portfolio. Said Councillors shall vote at Board Meetings.

(d) The Board is hereby authorized to select a chairman from amongst their midst and to appoint such other officers as they may see fit.

(e) Sitting Board members are eligible for reappointment at the expiry of their term.

(f) Persons employed by the Board shall not be eligible for Board membership.

Executive Director to attend all Board meetings

6. The Executive Director selected by the Board shall have, as part of his job description, an obligation to attend all meetings of the KINAMNOMAUDZHEWIN First Nations Health Board.

Confidentiality of Clients/Patient records

- 7 1) Subject to this by-law, clients/patients records made under this by-law and the joint and several Dokis, Nipissing and Temagami Health Policy (hereinafter referred to as the "Health Policy") are confidential and no person shall disclose or communicate information from the record in any form to any person except;

- a) to the KINAMNOMAUDZHEWIN Executive Director, or to a person employed, retained or consulted by said Executive Director in the course of administering or enforcing any provision of this by-law or the "Health Policy";
 - b) To the client/patient in question provided that release of the information to the client/patient has been approved by the KINAMNOMAUDZHEWIN Executive Director;
2. A client/patient of the KINAMNOMAUDZHEWIN Health Board is entitled to be given access to:
- (i) his or her own records; and
 - (ii) the record of a child who is in the adult's legal care subject to the exceptions contained in paragraph 7 (3) herein;
- 3) The KINAMNOMAUDZHEWIN Executive Director may refuse to give a person access to all or any part of a record referred to in 7 (2) where;
- a) There are reasonable grounds to believe that disclosure of all or part of the record might result in physical or serious psychological harm to that person;
 - b) That part of the record discloses the identity of the a person who is not employed by the KINAMNOMAUDZHEWIN Health Board and who has supplied information in confidence to the Health Board for any purpose relating to the administration or enforcement of this by-laws or the "Health Policy".

and the KINAMNOMAUDZHEWIN Executive Director shall notify the person in writing of the reasons for refusing access to all or any part of his or her record or the record of a child in his or her care.

- 4) It shall be stipulated in every contract of employment which the Board enters into that employees are undertaking to protect and honour the special relationship and confidentiality that exists between the Health Board and its clients/patients: It shall be further stipulated that breach of such confidentiality may be grounds for dismissal.

- 4) It shall be the duty of every Director of the Board to comply with the confidentiality provisions of this by-law and should a board members breach said confidentiality provisions it shall be grounds for the dismissal of that Board member from his position by the Band Councils.

The Board May Negotiate Agreements

8. (a) The Band Councils hereby authorizes the Board to negotiate agreements with other First Nations, the Federal Government, the Provincial Government, public health services agencies, or other private health services agencies, or other such agencies pursuant to the joint and several Dokis, Nipissing and Temagami Health Policy Manual for the delivery of regional or community health services to residents including, inter alia, the provision of or construction of health services facilities, including inter alia physicians, community health representatives, dentists, dental assistants, dental therapists, nurses, midwives, traditional Indian healers, medical officers of health, environmental health officer and other necessary personnel;
- (b) All such agreements shall be brought to the respective Band Councils for approval and ratification.

Responsibilities of the Board

9. The Board shall be responsible for the overall administration, maintenance and delivery of health services in the community and without restricting the generality of the foregoing may:
 - (a) Develop operating procedures for the Board;
 - (b) Recommend administrative, personnel, financial and other policies;
 - (c) Receive and approve budgets;
 - (d) Subject to the approval and ratification of the respective Band Councils borrow and spend money and acquire, dispose of and manage all forms of personal property;
 - (e) Manage such real property as the respective Band Councils may direct;
 - (f) Review and approve the Annual Report;
 - (g) Provide an Annual Report to the Chiefs and Councils and consult from time to time with Chiefs and Councils on the health needs of the community;
 - (h) Hire and dismiss a qualified Executive Director ;
 - (i) Advise the respective Band Councils on health and health related policy matters;
 - (j) Ensure that policies and procedures are in place to maintain the traditional confidentiality of medical records.

10. The Board may enter into agreements for the retention of a qualified Executive Director who shall be responsible and accountable directly to the Board and who shall be the senior health services staff officer.

11. The Board shall have the power to maintain, control and manage the affairs of the various health and related activities of the Dokis, Nipissing and Temagami First Nations and the power to disburse funds up to the amount of \$50,000 or subject to approval by their respective Band Councils and

where necessary any parties to any agreements made pursuant to this by-law and to disburse any other grants, fees, donations or other monies received by the Authority in the course of operating their programs and activities pursuant to the Health Policy Manual".

Duties of Executive Director

12. The Board may determine from time to time the duties and responsibilities of the qualified Executive Director and without restricting the generality of the foregoing the qualified Executive Director shall be responsible for;
- (a) Organizing and managing the day to day business of the Board;
 - (b) Establishing procedures to implement policies contained in the said "Health Policy Manual";
 - (c) Personnel administration and supervision of health services and staff including the power to hire and fire, subject always to such policy as to appeals or grievances as may be established by the Board;
 - (d) Financial administration;
 - (e) Program supervision;
 - (f) Liaison with other agencies;
 - (g) Managing all arrangements contracted for with others;
 - (h) Reporting to the Board on all the above mentioned matters in such form and on such schedules as the Board may from time to time determine.

Staffing and Personnel

13. The Board may determine from time to time the duties and responsibilities and the number of staff and personnel of the Board and without restricting the generality of the foregoing including inter alia; Dental Assistants, Dental therapists; Nurses; Midwives; Traditional Indian Healers; Medical officers of health; Environmental health officers; Clerks; and other necessary personnel.

14. The Board may recognize persons who act as traditional Indian Healers and may provide for method of any remuneration or any compensation to the traditional Indian Healers for such services.

Program and Services

15. The Board shall administer, manage, maintain and deliver, in accordance with the Health Transfer Agreement between the Minister of Health and the Dokis, Nipissing and Temagami First Nations, the following health services and programs and it is hereby enacted that at a minimum specific Provincial standards relating to such programs shall apply until such time as there may be an Agreement to the contrary between the Minister of Health for Canada and the Dokis, Nipissing and Temagami First Nations.
 - (a) Those treatment services mentioned in Appendix 6 (a) of Health Canada's Health Program Transfer Handbook dated September 28, 1987 and any amendments thereto;
 - (b) Communicable disease control;
 - (c) Occupational and environmental health and safety;
 - (d) Emergency health planning.
16. The Board shall administer and maintain such other local health services as are determined by the respective Band Councils to be required to be administered, maintained, and delivered to members of the Dokis, Nipissing and Temagami First Nations.

Enforcement and Penalties

17. Insofar as they are not inconsistent with this by-law or any future by-law, specific Provincial laws and regulations relating to the matters

mentioned in Paragraphs 15(a), (b), (c) and (d) are hereby incorporated as part of this by-law and may be enforced as part of this by-law, until such time as the Band Councils may otherwise agree with the Minister of Health for Canada.

18. The Board may, from time to time recommend to the Chiefs and Councils:
 - (a) Amendments to this by-law;
 - (b) The enactment of further by-laws to create or give effect to programs required for the health and well being of members of the Dokis, Nipissing and Temagami First Nations;
 - (c) Other measures that may be required to enable the Board to carry out its duties and responsibilities.
19. The Board is hereby authorized to take any action necessary to ensure this by-law or policy established thereunder is complied with.
20. The Board may consult with the Band Councils when enforcing this by-law or ensuring compliance with this by-law.
21. This by-law shall be enforced by Band Constables or any other Peace Officers serving the respective First Nations or by inspectors employed or designated by the Board.
22. Every individual, person or corporate body shall comply with this by-law and the laws and regulations referred to in Paragraph 17.
23. A violation of this by-law that continues for more than one day constitutes a separate offence for each day during which it continues.
24. Any individual, person or corporate body who violates any of the provisions of this by-law shall be guilty of an offence, and shall be liable on a summary conviction to a fine not exceeding \$1,000.00 or imprisonment for a term not exceeding 30 days, or to both a fine and imprisonment, for each violation.

Interpretation

25. In this by-law, the masculine includes the feminine, the feminine the masculine and the singular includes the plural and the plural the singular as the context requires.

Severability

26. In the event that a Court of competent jurisdiction or other body with jurisdiction determines that any provision herein is unlawful or beyond the jurisdiction of the Chiefs and Councils, and/or the Government of Canada, said provision shall be severable from this by-law and the remainder of the terms of this by-law future by-laws shall remain in full force and effect.

For the Protection of Directors and Officers

27. No Director or Officer of the Board shall be liable:
- (a) for the acts, receipts, neglects or defaults of any other director or officer or employee;
 - (b) for joining in any receipt or act for conformity;
 - (c) for any loss, damage or expense happening to the Board through the insufficiency or deficiency to title to any property acquired for or on behalf of the Board;
 - (d) for the insufficiency or deficiency of any security upon which any of the monies of the Board are placed or invested;
 - (e) for any loss or damage arising from the bankruptcy, insolvency or tortious act of any person, firm or corporation including any firm person or corporation with which any monies, securities or effects shall be deposited or lodged;
 - (f) for any loss, conversion, misapplication or misappropriation of or any damage resulting from any dealings with any monies, securities or other assets belonging to the Board;
 - (g) for any other loss, damage or misfortune whatever;

unless the above shall happen by his failure to exercise the powers and to discharge the duties of his office of trust honestly in good faith and in the best interests of the Board, and to exercise the degree of care, diligence and skill that a reasonable prudent person would exercise in comparable circumstances.

Indemnities to Directors and Officers

28. Subject to the provisions of this by-law, every Director and Officer of the Board, his heirs, executors, administrators and other legal personal representatives and person acting on instruction of the Board shall be indemnified by the Board for:
- (a) any liabilities, costs, charges and expenses that he sustains or incurs in respect of any action, suit or proceeding that is proposed or commenced against him in respect of the bona fide execution of the duties of his office; and
 - (b) all other charges, expenses which he sustains or incurs in respect of the affairs of the Board.

Conflict of Interest

29. A Director shall disclose to the Board any pecuniary interest or jurisdictional impediment that he has in any matter before the Board and shall not take part in deliberations of the Board on that matter or vote on that matter.
- (a) Where a disagreement arises as to whether a Board member has a pecuniary interest or a jurisdictional impediment in a matter before the Board, the Board shall decide by vote whether the Board member has such an interest or impediment, and the Board member in question may not take part in that vote.

- (b) Where the Board decides pursuant to subsection (a) that a Boardmember has such a pecuniary interest or impediment in a matter before the Board, the Board member in question shall not take part in deliberations of that Board on that matter or vote on that matter.
- (c) Where pursuant to this section, the chairman is prohibited from taking part in deliberations and from voting, he may nevertheless continue to act as Chairman.
- (d) A Board member who, pursuant to this section, is disqualified from taking part in deliberations and from voting shall be considered not to be present for the purposes of:
 - 1 - determining a quorum under section 30 and
 - 2 - determining a majority under the said section 30.

Quorum - Majority

- (a) A quorum of the Board consists of 7 Board members provided that the Dokis, Nipissing and Temagami First Nations have at least one of their members present.
- (b) The approval of any matter by the Board requires the affirmative votes of the majority of the Board members present when the vote is taken subject to section 29(d).
- (c) In case of emergency, absent Board members may participate by telephone conference.

Ex-Officio Board members

- 31. (a) The Board shall appoint an auditor as ex-officio member who will attend Board meetings only at the specific request of the Board.
- (b) The Board shall appoint a lawyer as legal advisor who shall also be an ex-officio Board member and who will attend Board meetings only at the specific request of the Board.

- (c) From time to time the Board may also invite individuals in their capacity as resource persons to attend Board meetings. Such individuals shall have no voting privileges.

Board 'Mission Statement'

32. The KINAMNOMAUDZHEWIN Board shall address the health needs of the Dokis, Nipissing and Temagami First Nation members in an even-handed and equitable manner when providing appropriate health services.

By the same token, all Board members must at all times act in the best interests of the Dokis, Nipissing and Temagami First Nations members as a whole rather than favour their specific constituencies.

DONE AND PASSED by Chiefs and Councils in Council
assembled this 16th 19 day of August A.D., 1984

The Dokis First Nation

Per:

Chief

Roger Pentoule
Helmut Dokis
Chris Dokis
Veronica Dokis
Wade Dokis
St Clair Dokis

(A QUORUM FOR THIS BAND CONSISTS OF 5 COUNCIL MEMBERS)

DONE AND PASSED by Chiefs and Councils in Council
assembled this 24th 19 day of Aug. A.D., 1994

Nipissing
The ~~Xenogon~~ First Nation

Per:

Margaret Penness-Wayer

Chief

Georgina Pelletier

Eric Fleves

Mary Kavelar

June Commanda

(A QUORUM FOR THIS BAND CONSISTS OF FIVE COUNCIL MEMBERS)

DONE AND PASSED by Chiefs and Councils in Council
assembled this 2nd day of Sept. A.D., 1994

The Temagami First Nation

Per:

Chief Holly Charyna
Chief
Greg Turner
Lucille McPhee
Bary McKenzie

A QUORUM FOR THIS BAND CONSISTS OF 2 COUNCIL MEMBERS.